IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 27499 of 2004(W)

PETITIONER:

B. CHANDRASENAN, JUNIOR CLERK,
MAYYANAD SERVICE CO-OPERATIVE BANK LIMITED
NO.2294, MAYYANAD, P.O. KOOTTIKADA, KOLLAM.

BY ADV. SRI.N.NANDAKUMARA MENON
SRI.K.VINODKUMAR
SRI.P.K.MANOJKUMAR

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, CO-OPERATION (C)
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), KOLLAM.

3. THE MAYYANAD SERVICE CO-OPERATIVE BANK
LIMITED, NO.2294, MAYYANAD, KOOTTIKADA P.O.,
KOLLAM, REPRESENTED BY ITS SECRETARY.

4. S. RADHAKRISHNAN, HEAD CLERK,
MAYYANAD SERVICE CO-OPERATIVE BANK LIMITED
NO.2294, MAYYANAD, KOOTTIKADA P.O., KOLLAM.

5. S. SREELATHA, SENIOER CLERK,
MAYYANAD SERVICE CO-OPERATIVE BANK LIMITED,
NO.2294, MAYYANAD, KOOTTIKADA P.O., KOLLAM.

6. C.S. RAJEEVKUMAR, SENIOR CLERK,
MAYYANAD SERVICE CO-OPERATIVE BANK LIMITED,
NO.2294, MAYYANAD, KOOTTIKADA P.O, KOLLAM.

7. SOBHANA KUMARI, SENIOR CLERK,
MAYYANAD SERVICE CO-OPERATIVE BANK LIMITED,
NO.2294, MAYYANAD, KOOTTIKADA P.O., KOLLAM.

8. S. GEETHA, JUNIOR CLERK,
MAYYANAD SERVICE CO-OPERATIVE BANK LIMITED
NO.2294, MAYYANAD, KOOTTIKADA P.O., KOLLAM.

BY ADV. SRI.T.R.HAIRKUMAR- R4 TO R8
SRI.B.SURESH KUMAR-R3
SMT.C.G.PREETHA
GOVERNMENT PLEADER SRI.P.K. RAVIKRISHNAN-R1 &R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT:P1: TRUE COPYIF THE RESOLUTION NO.75 DATED 28.03.1988 ISSUED BY THE SECRETARY,THEMAYYANAD SERVICE CO-OPERATIVE BANK, LIMITED , NO.2294,KOOTTIKADA P.O., KOLLAM.

EXT.P2: PHOTOCOY OF THE RESOLUTION NO.94 DATED 24.6.1993 ISSUED BY THE SECRETARY, THE MAYYANAD SERVICE CO-OPERATIVE BANK LIMITED, NO.2294, KOOTTIKADA P.O., KOLLAM.

EXT.P3: TRUE COPY OF THE SENIORITY LIST ISSUED BY THE SECRETARY IN CHARGE, THE MAYYANAD SERVICE CO-OPERATIVE BANK LIMITED NO.2294, KOOTTIKADA P.O., KOLLAM.

EXT.P4: PHOTOCOPY OF THE LIST APPENDED TO THE RESOLUTION NO.340 DATED 30.09.1999 ISSUED BY THE SECRETARY IN CHARGE THE MAYYANAD SERVICE CO- OPERATIVE BANK LIMITED NO.2294, KOOTTIKADA P.O., KOLLAM.

EXT.P5: TRUE COPY OF THE REPRESENTATION DATED 21.9.99 SUBMITTED BY THE PETITINER BEFORE THE SECOND RESPONDETN WITH COPY TO THE 3RD RESPONDENT BANK.

EXT.P6: TRUE COPY OF THE ORDER NO.R.10475/99 DATED 25.9.01 ISSUED BY THE JOINT REGISTRAR (GENERAL) KOLLAM.

EXT.P7: TRUE COPY OF THE REVISION PETITION DATED 15.01.2004 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P8: TRUE COPY OF THE ORDER G.O.(RT)NO.190/04/CO-OP.DATED 29.03.2004 ISSUED BY THE GOVERNMENT.

EXT.P9: TRUE COPY OF THE CIRCULAR NO.E.M.(2)35427/02 (NO.57/03) DATED 7.11.03 ISSUED BY THE REGISTRAR IN CHARGE,.

EXT.P10: PHOTOCOPY EXTRACT OF THE SENIORITY LIST (JUNIOR CLERK (1175-30-1265-35-1440-40-1680-50-1980)

/TRUE COPY/

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO.27499 OF 2004

DATED THIS THE 22nd DAY OF MARCH, 2007

JUDGMENT

This writ petition is filed by the petitioner, who is an employee of the 3rd respondent Co-operative Society, challenging the fixation of his seniority. According to him, he is entitled to seniority in the cadre of Junior Clerks as on 1.7.89, whereas his seniority in the post of Junior Clerk was fixed with effect from 1.9.97 which is the date on which the petitioner re-joined duty after the expiry of long leave. The petitioner's contention is that taking of long leave would not affect his seniority, although he may loose chance of promotion to vacancies which arose during the period when he was on leave. I am not inclined to go into the contentions of the petitioner in this regard, since it would be more appropriate for the petitioner to approach the Arbitration Court under Section 69 of the Kerala Co-operative Societies Act for resolution of this dispute, in view of the amendment to Section 69 by including Sub Section 2(d), whereby a dispute in connection with employment of officers and servants of the different classes of Societies specified in the Sub Section 1 of Section 80, including their promotion and inter-se seniority is also declared as a dispute coming

within the purview of Section 69.

In the above circumstances, I dispose of this writ petition with liberty to the petitioner to approach the Arbitration Court under Section 69 of the Kerala Co-operative Societies Act. Since the petitioner had filed this writ petition as early as on 20.9.04, it is only appropriate that the Arbitration Court considers the dispute to be raised by the petitioner on merits untrammeled by the findings of the joint Registrar and the Government in Exts.P6 and P8 orders, and without considering limitation. But if the petitioner wants to pursue this remedy he shall raise the dispute before the Arbitration Court within one month from today. However, I make it clear that I have not considered the claim of the petitioner on merits and it would be open to the Arbitration Court to decide the question after considering the contentions of the rival parties to the dispute as presented before it.

S. SIRI JAGAN, JUDGE

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